

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE PAVERS AND  
ROAD BUILDERS DISTRICT  
COUNCIL WELFARE, PENSION,  
AND ANNUITY FUNDS and  
TRUSTEES OF THE LOCAL 1010  
APPRENTICESHIP, SKILL  
IMPROVEMENT AND TRAINING  
FUND,

**MEMORANDUM AND ORDER**

Case No. 1:22-CV-5053 (FB) (PK)

Plaintiffs,

-against-

USA ROOFING COMPANY CORP.,

Defendant.

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**BLOCK, Senior District Judge:**

On September 12, 2023, Magistrate Judge Kuo issued a Report and Recommendation (“R&R”) recommending that the Court grant Trustees of the Pavers and Road Builders District Council Welfare, Pension, and Annuity Funds and Trustees of the Local 1010 Apprenticeship, Skill Improvement and Training Funds’ (“Plaintiffs”) motion for default judgment against USA Roofing Company Corp. (“Defendant”), and award Plaintiffs \$382,923.66 in damages plus post-judgment interest. The R&R gave the parties fourteen days to file objections and warned that “[f]ailure to file objections within the specified time waives the right to appeal any

order or judgment entered based on this Report and Recommendation.” R&R at 21. No objections have been filed.

If clear notice has been given of the consequences of failing to object, and there are no objections, the Court may adopt the R&R without de novo review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) (“Where parties receive clear notice of the consequences, failure to timely object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.” (citations omitted)). The Court will, however, excuse the failure to object and conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. Accordingly, the Court adopts the R&R without de novo review. The Clerk shall enter judgment in favor of Plaintiffs and against Defendant, and shall award Plaintiffs the following damages: \$95,989.34 in delinquent contributions and union assessments for months with remittance reports; \$217,603.48 in delinquent contributions and union assessments for months without remittance reports; \$33,825.22 in interest through September 5, 2023, and interest at a rate of \$82.41 per day from September 6, 2023 through the date of judgment; \$30,087.53 in liquidated damages; \$80.34 in late

payment interest; \$5,337.75 in attorneys' fees and expenses; and post-judgment interest calculated at the statutory rate. In total, \$382,923.66 in damages, plus additional interest as indicated above.

**SO ORDERED.**

/S/ Frederic Block  
FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
September 28, 2023